THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.5193 OF 2005

ORDER:

The petitioners, five in number, claim to be retail traders in rice. It is stated that they were granted licences under Section 7 of the Andhra Pradesh (Agricultural Produce and Livestock) Markets Act, 1966 (for short "the Act"), for carrying on the business in the Agricultural Market Committee of Gollapudi, Vijayawada.

It is not in dispute that some of the rice millers earlier filed a Batch of Writ Petitions aggrieved by the action of the Market Committees in deducting market fees under Section 12 of the Act. In the said Writ Petitions the contention of the petitioners therein, that the market fees has to be paid only by the purchaser and not the seller and can only be collected after the assessment is made was not accepted by this Court, and accordingly, all the Writ Petitions were dismissed by a Division Bench of this Court by judgment dated 21.12.2004.

The petitioners herein, who claim to have been carrying on retail business in rice and other pulses, pleaded that the market fees is supposed to be paid by the millers as held by the Division Bench in W.P.No.3327 of 2004 and Batch. It is alleged that the respondents having failed to collect the market fees from the millers in terms of the Judgment of the Division Bench, have been demanding the same from the petitioners. Since they are mere traders in rice and not millers, the respondents have no authority to collect the market fees from them. Hence, this Writ Petition seeking a direction to the respondents not to insist on payment of the market fees from the petitioners by declaring that the insistence on payment of such market fees is arbitrary and illegal, and contrary to the provisions of the Act.

In the counter-affidavit filed on behalf of the 1st respondent-Agricultural Market Committee it is stated that under Section 12 (1) of the Act, the market committee is empowered to levy market fee on the notified agricultural produce purchased or sold in the notified market area. The proviso to Section 2 of the Act obligates the seller to pay the market fees in the event the purchaser remained not identified. It is stated

that the petitioners have been carrying on the business of purchase and sale of rice within the notified market area of the 1st respondent and that they are also holding licences under Section 7 (1) of the Act. Since the petitioners have admitted that they are purchasing rice from the millers, they are bound to pay the market fees and submit returns on or before 25th of the succeeding month relating to the turnover in the preceding month as per the bye-laws and the provisions of the Act. The assessment order under Section 12-B of the Act would be passed allowing exemptions as permissible. The petitioners are liable to pay the market fees on the purchase of the rice from the millers since they are identified purchasers. Hence, the Writ Petition is misconceived.

I have heard the learned counsel for both the parties and perused the material on record.

Admittedly, the petitioners are holding licences under Section 7 of the Act. It is clear from the conditions prescribed under the licence in Form-8 of the Andhra Pradesh (Agricultural Produce and Livestock) Markets Rules, 1969 (for short "the Rules), that the licencee shall submit to the committee true and correct information regarding the purchase, sale and storage of agricultural produce by him in the preceding month to enable the market committee to determine the fees payable by him and collect the said fees under Section 12 of the Act. Condition No.5 also provides that the licencee shall pay and also facilitate the collection of fees under Section 12 of the Act due to the market committee as and when it becomes due as per the provisions of the Act. The said conditions are in terms of Section 12-A of the Act under which every trader in the notified area is liable to pay fees under Section 12 of the Act and is bound to submit returns relating to his turnover in the manner prescribed under the Rules.

The petitioners do not dispute the fact that they are carrying on business in rice in the 1st respondent - market committee. It is also their case that they are purchasing rice from the millers who are liable to pay the market fees under Section 12 of the Act. The contention of the petitioners that in view of the Judgment of the Division Bench in the Batch of cases holding that the millers are liable to pay the market fees, the market fees cannot be levied and collected from the petitioners is misconceived and without any substance. The Division Bench in the said Batch of cases did not express that the traders in rice cannot be made liable for payment of the market fees under Section 12 of the Act. It is relevant to note that under sub-section (2) of Section

12 of the Act, market fees shall be paid by the purchaser of the notified agricultural produce. However, as per the proviso, where the purchaser cannot be identified, market fees shall be paid by the seller. In the circumstances, it is for the petitioners who are admittedly purchasing rice from the millers to pay the market fees under Section 12 of the Act. The liability of the miller and the liability of the petitioners, who are retail traders, are distinct and independent. The obligation to file the returns as provided under the Act, read with Conditions of the licence, is mandatory. Once such returns are filed, assessment order under Section 12-B of the Act shall be passed by the appropriate authority allowing exemptions permissible under law. Hence, the Writ Petition is devoid of any merit and accordingly the same is dismissed. No costs.

_____

(G. ROHINI, J.)

February 7, 2006.

Kgr

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.5193 OF 2005

February 7, 2006.

Between:

M/s Bhaskara Rice Traders, represented

By its proprietor – Mr. Parthasarathi

And four others. .. Petitioners.

And

Special Grade Secretary, Agricultural

Market Committee, Gollapudi, Vijayawada

and another. .. Respondents.